

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE ENROLLED ACT No. 1958

AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 24-5-21 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2001]:

### **Chapter 21. Prescription Drug Discount Cards**

#### **Sec. 1. This chapter does not apply to the following:**

- (1) Eye or vision care services, glasses, or contact lenses provided by an optometrist or ophthalmologist.**
- (2) A card, device, or other purchasing mechanism that is not insurance but that is administered in conjunction with a health or medical benefit by an insurance company, a nonprofit health service plan corporation, or a health maintenance organization.**
- (3) A benefit administered by or under contract with the state of Indiana.**
- (4) A customer discount or membership card issued by a store or buying club for use at that store or buying club.**

**Sec. 2. As used in this chapter, "person" has the meaning set forth in IC 24-5-0.5-2.**

**Sec. 3. A person may not sell, market, promote, advertise, or distribute a card, device, or other purchasing mechanism that purports to offer discounts or access to discounts from a pharmacy for prescription drug or device purchases in the following**



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situations:

- (1) The card, device, or other purchasing mechanism does not expressly state in bold and prominent type, which is prominently placed, that the discounts are not insurance.
- (2) The discounts are not specifically authorized by an individual and separate contract with each pharmacy listed with the card, device, or other purchasing mechanism.
- (3) The discounts or access to discounts offered, or the range of discounts or access to the range of discounts offered are deceptive or misleading.

**Sec. 4.** A person who is not exempt under section 1 of this chapter and who sells, markets, promotes, advertises, or distributes a card, device, or other purchasing mechanism that purports to offer discounts or access to discounts from a pharmacy for prescription drug or device purchases shall designate a resident in Indiana as an agent for service of process and register the agent with the secretary of state.

**Sec. 5.** A contract entered into to purchase a card, device, or other purchasing mechanism that purports to offer discounts or access to discounts from a pharmacy for prescription drug or device purchases that does not comply with this chapter is voidable by the purchaser.

**Sec. 6. (a)** The attorney general, a prosecuting attorney, or an individual may maintain an action to enjoin any act that is in violation of this chapter and for the recovery of damages.

**(b)** An action brought under this section may be brought in the county where:

- (1) the plaintiff resides or conducts business;
- (2) the defendant resides or conducts business; or
- (3) the card, device, or other purchasing mechanism that purports to offer discounts or access to discounts from a pharmacy for prescription drug or device purchases was sold, marketed, promoted, advertised, or distributed.

**(c)** If the court finds that the defendant violated any provision of this chapter, the court shall enjoin the defendant from continuing the acts that are in violation of this chapter.

**(d)** A plaintiff who prevails in an action under this chapter may recover the following:

- (1) A sum equal to one hundred dollars (\$100) per card, device, or other purchasing mechanism that is sold or distributed in Indiana by the defendant or ten thousand dollars (\$10,000), whichever is greater.



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- (2) Three (3) times the amount of actual damages, if any.
- (3) Reasonable attorney's fees.
- (4) Court costs.
- (5) Any other relief that the court considers proper.

**Sec. 7. (a)** The provisions of this chapter are not exclusive and do not relieve a person from compliance with other applicable provisions of law.

**(b)** The penalties in this chapter are cumulative and in addition to any other applicable penalties.

**(c)** A person that violates this chapter is subject to the penalties set forth in IC 24-5-0.5.

**(d)** All actions brought under this chapter must be brought within two (2) years after the date on which the violation of this chapter occurred.

SECTION 2. IC 27-8-5.8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

**Chapter 5.8. Insurance Benefit Cards**

**Sec. 1.** As used in this chapter, "accident and sickness insurance policy" means an insurance policy that provides at least one (1) of the types of insurance described in IC 27-1-5-1, Classes 1(b) and 2(a), and is issued on a group basis. The term does not include the following:

- (1) Accident only, credit, dental, vision, Medicare, Medicare supplement, long term care, or disability income insurance.
- (2) Coverage issued as a supplement to liability insurance.
- (3) Automobile medical payment insurance.
- (4) A specified disease policy.
- (5) A limited benefit health insurance policy.
- (6) A short term insurance plan that:
  - (A) may not be renewed; and
  - (B) has a duration of not more than six (6) months.
- (7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.
- (8) Worker's compensation or similar insurance.
- (9) A student health insurance policy.

**Sec. 2.** As used in this chapter, "commissioner" means the insurance commissioner appointed under IC 27-1-1-2.

**Sec. 3.** As used in this chapter, "insured" means an individual who is entitled to coverage under an accident and sickness insurance policy.



**Sec. 4. (a) This section applies to an insurer that:**

- (1) issues an accident and sickness insurance policy that provides coverage for prescription drugs or devices; and**
- (2) issues a card or other technology for claims processing.**

**This section also applies to a third party administrator for self-insured plans, a pharmacy benefit manager, or a health benefit plan administered by the state if the administrator, manager, or plan issues a card or other technology described in subdivision (2).**

**(b) The card or other technology issued by an insurer or another entity referred to in subsection (a) must contain uniform prescription drug information that complies with the requirements established under subsection (c).**

**(c) Prescription drug information cards or other technology must meet either of the following criteria:**

**(1) Be in a format and contain information fields approved by the National Council for Prescription Drug Programs (NCPDP) as contained in the National Council for Prescription Drug Programs Pharmacy ID Card Implementation Guide in effect on the October 1 most immediately preceding the issuance of the card.**

**(2) Contain the following information:**

**(A) The health benefit plan's name.**

**(B) The insured's name, group number, and identification number.**

**(C) A telephone number to inquire about pharmacy related issues.**

**(D) The issuer's international identification number or ANSI BIN number, labeled as RxBIN.**

**(E) The processor control number, labeled as RxPCN.**

**(F) The insured's pharmacy benefits group number if different than medical group number, labeled as RxGRP.**

**(3) Only those fields listed in (A) through (F) above that are required for proper adjudication of the claim must appear on the card. If the card is used to adjudicate non-pharmacy claims, then the designation "Rx" listed in the fields (D) through (F) is not required to be utilized by the issuer.**

**(d) An insurer its agents, contractors, or administrators, including pharmacy benefits managers, may not be required to issue a prescription drug information card or other technology to a person more than one (1) time during a twelve (12) month period.**

**(e) The prescription drug information cards or other technology issued under this section may be used for health insurance**

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coverage other than the coverage to which this chapter applies.

SECTION 3. IC 27-13-9-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5. (a) This section applies to a health maintenance organization that provides coverage for prescription drugs or devices and issues a card or other technology for claims processing.**

**(b) The card or other technology issued by a health maintenance organization must contain uniform prescription drug information that complies with the requirements established under subsection (c).**

**(c) Prescription drug information cards or other technology must meet either of the following criteria:**

**(1) Be in a format and contain information fields approved by the National Council for Prescription Drug Programs (NCPDP) as contained in the National Council for Prescription Drug Programs Pharmacy ID Card Implementation Guide in effect on the October 1 most immediately preceding the issuance of the card.**

**(2) Contain the following information:**

**(A) The health benefit plan's name.**

**(B) The enrollee's name, group number, and identification number.**

**(C) A telephone number to inquire about pharmacy related issues.**

**(D) The issuer's international identification number or ANSI BIN number, labeled as RxBIN.**

**(E) The processor control number, labeled as RxPCN.**

**(F) The insured's pharmacy benefits group number if different than medical group number, labeled as RxGRP.**

**(3) Only those fields listed in (A) through (F) above that are required for proper adjudication of the claim must appear on the card. If the card is used to adjudicate non-pharmacy claims, then the designation "Rx" listed in the fields (D) through (F) is not required to be utilized by the issuer.**

**(d) A health maintenance organization may not be required to issue a prescription drug information card or other technology to a person more than one (1) time during a twelve (12) month period.**

**(e) The prescription drug information cards or other technology issued under this section may be used for health care service coverage other than the coverage to which this chapter applies.**

SECTION 4. [EFFECTIVE JULY 1, 2001] **(a) Notwithstanding IC 27-8-5.8 and IC 27-13-9-5, both as added by this act, an insurer**

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or a health maintenance organization its agents, contractors, or administrators, including pharmacy benefits managers, is not required to issue prescription drug information cards or other technology that meet the requirements established under IC 27-8-5.8 and IC 27-13-9-5, both as added by this act, for a contract issued or renewed before July 1, 2002.

(b) This SECTION expires July 1, 2002.

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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